

Notice of Allowability

Application No.

09/857,205

Examiner

Amel C. Lavarias

Applicant(s)

WOLLESCHEFSKY, RALF

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/22/05,6/2/05.
2. ☒ The allowed claim(s) is/are 15-18,21,24-27,32-36,43-45,48-49,54-56,58-60,65,68 (renumbered 1-27).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

THONG NGUYEN
PRIMARY EXAMINER
GROUP 2800

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/2/05 has been entered.

Response to Amendment

2. The amendments to Claims 15-18, 24, 32-33, 43, 45, 54-56, 58 in the submission dated 6/2/05 are acknowledged and accepted.
3. The cancellation of Claims 13-14, 19-20, 22, 28-31, 37-42, 46-47, 50-53, 57, 63-64, 66-67 in the submission dated 6/2/05 is acknowledged and accepted.
4. In view of the amendments made above, the objections to the drawings in Section 5 of the Office Action dated 3/29/05 are respectfully withdrawn. Additionally, the double patenting rejections in Section 6 and the rejections under 35 U.S.C. 112, 1st paragraph, in Sections 8-9 of the Office Action dated 3/29/05 are also respectfully withdrawn.

Response to Arguments

5. The Applicant's arguments, see in particular Applicant's remarks and arguments on Pages 15-20 of the submission, filed 6/2/05, with respect to the rejections in Sections 11-20 of the Office Action dated 3/29/05, have been fully considered and are persuasive. The rejections in Sections 11-20 of the Office Action dated 3/29/05 have been withdrawn.

Allowable Subject Matter

6. Claims 15-18, 21, 24-27, 32-36, 43-45, 48-49, 54-56, 58-60, 65, 68 are allowed.

EXAMINER'S AMENDMENT

7. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 43, line 1, change the status identifier "*(previously presented)*" to *--(currently amended)--*.

Claim 45, line 1, change the status identifier "*(previously presented)*" to *--(currently amended)--*.

Art Unit: 2872

Claim 58, line 1, change the status identifier “(previously presented)” to --(currently amended)--.

8. The following is an examiner’s statement of reasons for allowance:

Claim 24 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a microscope having a microscope beam path, as generally set forth in Claim 24, the microscope including, in combination with the features recited in Claim 24, a plurality of light diffracting means for feeding the excitation light into the microscope beam path by diffraction of the excitation light, for separating excitation light and wavelength-shifted emission light emitted by the sample in the microscope beam path by diffraction of the excitation light, and for simultaneously or individually feeding in different wavelengths and for independently regulating an excitation intensity of each of the light sources, wherein the light diffracting means are arranged on a common optical axis. Claims 15-18, 21, 25-27, and 65 are dependent in Claim 24, and hence are allowable for at least the same reasons Claim 24 is allowable.

Claim 43 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a fluorescence microscope, as generally set forth in Claim 43, the microscope including, in combination with the features recited in Claim 43, a plurality of acousto-optical means which are arranged on a common optical axis for individually feeding the excitation light from the light sources into the microscope optics means by diffraction of the excitation light, for independently regulating an excitation intensity of each of the light sources, and for separating

Art Unit: 2872

excitation light and wavelength-shifted fluorescence light emitted by the sample by diffraction of the excitation light. Claims 32-36, 44-45, 48-49, 54-56, and 68 are dependent on Claim 43, and hence are allowable for at least the same reasons Claim 43 is allowable.

Claim 58 is allowable over the cited art of record for at least the reason that the cited art of record fails to teach or reasonably suggest a device for feeding light into a microscope beam path and for detecting emission light emitted by a sample, as generally set forth in Claim 58, the device including, in combination with the features recited in Claim 58, a plurality of light diffracting means located on a common optical axis for individually feeding the excitation light of the plurality of light sources into the common optical axis by diffraction of the excitation light, for independently regulating an excitation intensity of each of the light sources, and for separating excitation light and wavelength-shifted emission light by the sample by diffracting the excitation light and transmitting undiffracted the wavelength-shifted emission light. Claims 59-60 are dependent on Claim 58, and hence are allowable for at least the same reasons Claim 58 is allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2872

Conclusion

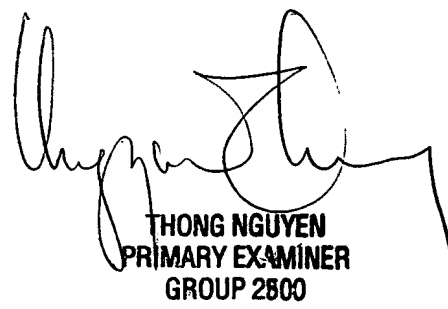
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arnel C. Lavarias whose telephone number is 571-272-2315. The examiner can normally be reached on M-F 9:30 AM - 6 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Arnel C. Lavarias
9/26/05



THONG NGUYEN
PRIMARY EXAMINER
GROUP 2800